



*State of California*

## **OFFICE OF THE INSPECTOR GENERAL**

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**Department of Corrections and Rehabilitation has mismanaged millions by failing to adequately account for and control union leave time.**

In a special review released today, the Office of the Inspector General reported that the Department of Corrections and Rehabilitation has mismanaged approximately \$12 million in state resources over the past six years by neglecting to establish fiscal controls over the use of leave time by members of employee unions.

“State law and union contracts require agencies to allow union members a reasonable amount of time off with pay to represent employees and conduct union business,” said Inspector General Matthew Cate, “but the department has violated state fiscal-responsibility laws by not setting up the proper systems to account for and control the time taken.”

Unfortunately, the department’s record-keeping in this area is so poor, Cate reported, that the Office of the Inspector General was unable to determine the total fiscal impact of the mismanagement or to identify monies that may be owed to the state as a result, but he said his office was able to estimate the cost of specific examples of union leave mismanagement uncovered during the review.

Overall, according to State Controller’s Office records, members of employee unions used 318,317 hours of union leave time from the Department of Corrections and Rehabilitation between 2000 and 2005 — the equivalent of approximately \$12 million in staff resources.

Nearly two-thirds of that time — 197,802 hours — was used by rank-and-file members of the California Correctional Peace Officers Association from its release time bank, in which employees donate hours for use by other members of Bargaining Unit 6. Approximately 30,000 of the department's 58,600 employees are rank-and-file union members affiliated with Bargaining Unit 6. Other types of union leave time, each of which accounts for a much smaller percentage of the hours used, require either that the department absorb the cost of the employee's absence from the job or that the unions pay the department for the lost time.

Despite the significant percentage of union leave hours represented by the release time bank, and even though the release time bank has existed for more than 20 years, the Office of the Inspector General found that the department has failed to set up an effective system to accurately track the hours donated and used, and that as a result, it is not possible to determine whether use of the release time bank hours exceeds donations.

According to State Controller's Office records, between 2000 and 2005, rank-and-file members of the California Correctional Peace Officers Association used 30,373 more hours from the release time bank than were donated — the equivalent of \$1.1 million in staff resources. But the Inspector General also found that the data submitted by the department to the State Controller's Office is riddled with errors and that the department may have improperly charged other types of union release time to the release time bank. As a result, it is impossible to determine whether the apparent deficit actually exists. At the same time, the Inspector General also found instances in which the department had failed to deduct hours from the release time bank even though the union had requested the time off as release time bank hours. From checking the records of nine employees who had been released indefinitely from job assignments to conduct union functions, the Inspector General identified 14,707 hours that should have been charged to the release time bank, but were not—the equivalent of approximately \$554,000 in staff resources.

The Office of the Inspector General also noted that current language in the state's contract with the California Correctional Peace Officers Association expressly limits use of the release time bank to 10,000 hours over the six-year life of the contract. Yet, the cap has never been enforced and its validity is now under dispute. The review found that the department did not raise the issue of the cap until 2005 — four years into the contract and after union members had used 122,367 hours from the release time bank. The union maintains, and the state's lead negotiator for the contract has testified, that the parties agreed during contract negotiations to eliminate the cap and that it remained in the

contract only by mistake. Accordingly, an arbitrator ruled that the presence of the cap in the contract resulted from a transcription error, but the arbitrator's ruling was subsequently vacated by the court, and the union is now seeking removal of the cap in a separate action. While that litigation is pending, the department continues to grant leave time from the release time bank without regard to the 10,000-hour limit.

In addition to issues associated with management of the release time bank, the Office of the Inspector General cited several examples of what it termed "poor decisions" by the department and errors in planning for and managing various types of union leave time. One of these examples was the failure of the department to consistently bill employee unions for leave time reimbursable to the state. In checking one sample of 1,620 hours recorded as union-paid leave in State Controller's Office records, the Office of the Inspector General found that the department did not bill the unions for 1,266 of the hours in question, an amount equivalent to almost \$48,000. In the course of the review, staff from one of the department's eight regional accounting offices told the Office of the Inspector General that, in fact, the office had never billed the California Correctional Peace Officers Association to obtain reimbursement for union-paid leave.

The Inspector General also reported that because of a disagreement between the department and the union over the interpretation of a side-letter to the Bargaining Unit 6 agreement, the department has not required some employees on union leave to submit timesheets. The absence of that requirement makes it possible for those employees to not report sick time or vacation or to claim they worked on holidays without a supervisor's verification that they actually did so. As a result, some employees on union leave may have been able to improperly accrue large leave balances from unused vacation and sick time, resulting in a fiscal liability for the state in the form of a possible lump sum payment, increased pension benefit, or both when those employees retire.

For example, the Inspector General found that an employee who was on union leave for 6½ years reported no sick leave or vacation time for the entire period and claimed to have worked every holiday since April 1999, even though the request for union leave had specifically excluded the holidays. As a result, the employee had collected his regular pay, eight hours of holiday credit, and four hours of holiday pay for each of the holidays in question, which, in 2005 alone, according to the department, resulted in compensation totaling \$8,000 and 104 hours of holiday credit. The employee had also accumulated a leave balance for unused vacation time of 2,376 hours by November 2005, which if unchanged, would result in a lump sum payment at retirement of \$116,000. Without an

effective time-accounting system, however, it is not possible to verify that the employee validly claimed that time and was entitled to the resulting compensation.

The Inspector General's review also identified instances in which employees were released indefinitely from job assignments with full pay but without documentation that the release had been authorized. The records of one such employee showed he used 2,738 hours of union leave — the equivalent of \$103,000 — even though the department could produce no evidence of authorization for the release.

Inspector General Cate noted that the mismanagement of union leave time by the Department of Corrections and Rehabilitation violates the Financial Integrity and State Manager's Accountability Act of 1983, which requires state agencies to maintain systems of internal accounting and administrative control to safeguard assets, maintain data accurately and reliably, and minimize fraud, errors, abuse, and waste of government funds.

The full text of the Inspector General's special review into the management of union release time by the California Department of Corrections and Rehabilitation can be viewed and downloaded from the Office of the Inspector General's web site at <http://www.oig.ca.gov/>. To view the report, click on the report title, "Special Review into Management of Union Leave Time by the California Department of Corrections and Rehabilitation" (July 2006) on the home page or on the link to Bureau of Audits and Investigations, Special Reviews, under "Union Leave Time, Management by the California Department of Corrections and Rehabilitation, Special Review" (July 2006).

The Office of the Inspector General is an independent state agency responsible for oversight of the California Department of Corrections and Rehabilitation. The office carries out its mission by conducting audits, special reviews, and investigations of the department to uncover criminal conduct, administrative wrongdoing, poor management practices, waste, fraud, and other abuses by staff, supervisors, and management. The special review was conducted under the authority provided to the Inspector General in California Penal Code section 6126.